

REMARKS/ARGUMENTS

Claims 3-10 have been allowed without amendment. Claims 1 and 2 stand rejected under 35 U.S.C. § 102(e) over Peale et al., U.S. Patent No. 6,480,645 based on an application filed January 30, 2001. Without conceding that the reference predates the present invention and without surrendering the opportunity to seek further claims, the Applicants have added substitute claims 18 and 19 to remove an evident unnecessary limitation in claim 1 and to incorporate further limitations based on the Examiner's statement of allowability.

In addition, claim 1 has been amended to remove an unnecessary limitation and the declaration of the co-inventor under 37 C.F.R. § 1.131 is submitted herewith, supported with copies of Laboratory Notebook Number 1 of the co-inventor Bryan Staker showing that the invention of claim 1 was made over five months prior to the filing date of the cited reference. Page 49 of the notebook shows and explains all of the operative elements of claim 1 and states the date of invention.

Claims 11-17 have been canceled. These claims are the basis of a related division application, now U.S. Patent No. 6,764,881 issued 7/20/04.

CONCLUSION

In view of the foregoing, the Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Appln. No. 09/919,038
Amdt. dated August 20, 2004
Reply to Office Action of June 2, 2004

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Kenneth R. Allen
Reg. No. 27,301

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: (650) 326-2400
Fax: (650) 326-2422
KRA:deh